

**DEPARTMENT OF INSURANCE****Legal Division, Special Projects Bureau**

45 Fremont Street, 21st Floor  
San Francisco, CA 94105



**NOTICE OF PROPOSED EMERGENCY REGULATIONS  
PURSUANT TO CALIFORNIA INSURANCE CODE SECTION 12921.7**

File No. ER 01018047

August 15, 2003

**Special Investigative Units Regulations**

California Insurance Commissioner John Garamendi hereby provides notice, pursuant to California Insurance Code Section 12921.7, that he will propose to the Office of Administrative Law the amendment of the Special Investigative Units Regulations (Title 10, Chapter 5, Subchapter 9, Section 2698.40 of the California Code of Regulations) on an emergency basis pursuant to California Government Code Section 11346.1(b).

This Notice contains a description of the problem and the necessity for regulation, an explanation of the justification for the adoption of the regulation on an emergency basis and a copy of the proposed regulation.

This Notice is provided to every person, group, and association who has previously filed a request for notice of regulatory action with the Commissioner. Copies of the Notice are available at the Department of Insurance, 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California, 94105 and on the Department's web site at [www.insurance.ca.gov](http://www.insurance.ca.gov).

The proposed regulation will be submitted to the Office of Administrative Law together with the rulemaking file not less than five (5) working days after the mailing of this Notice, as required by California Insurance Code Section 12921.7. Questions regarding this Notice should be directed to:

California Department of Insurance  
Legal Division, Special Projects Bureau  
Attn: Debra A. Chaum  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105  
(415) 538-4115

**DESCRIPTION OF PROBLEM AND NECESSITY FOR REGULATION**

Insurance fraud in the State of California is extensive; it is estimated that the cost of insurance fraud committed annually in the area of worker's compensation insurance is between \$1-3 billion dollars. Automobile insurance fraud costs each consumer an additional two hundred dollars per policy of automobile insurance every year. These costs of insurance fraud are borne both directly by the individual policyholder and indirectly by the consumer as the costs of goods and services increase to accommodate the higher premiums paid by businesses. Currently, California

law addresses the issue of deterrence and detection of such insurance fraud through a statutory scheme. California Insurance Code Section 1872.50 requires that every insurer admitted to do business in the state shall maintain a unit or division to investigate possible fraudulent claims; these units are referred to as Special Investigative Units or alternatively, SIU's.

The current regulations (found at California Code of Regulations, Title 10, Chapter 5, Subchapter 9) govern the establishment, maintenance and oversight of Special Investigative Units. These regulations were originally filed with the Secretary of State on May 3, 1994. After the enactment of the regulations the California Department of Insurance, Fraud Division implemented a plan to examine the activities of the Special Investigative Units and determine if insurance carriers had complied with all provisions of the regulations. This oversight activity, revealed that the regulations were seriously flawed, contained vague and ambiguous language and most critically failed to provide specific guidance to insurance carriers that would enable them to implement the regulations and statutes.

The amendments to the regulations proposed herein provide needed specificity to the regulations currently in place. These regulations, as amended, provide for specified staffing levels for the SIU's, a uniform standard for insurers to utilize in determining when to refer suspected fraud to the Department and specific content requirements and procedures for the referral of suspected fraud to the Fraud Division or other law enforcement agencies required by statute and sanctions for the failure to comply with these regulations.

#### **JUSTIFICATION FOR ADOPTION AS EMERGENCY REGULATIONS**

There is not sufficient time to follow the standard regulation promulgation procedures set forth in the Government Code. Immediate enhancement of the insurer's ability to rapidly detect and deter fraud is essential. If these proposed emergency regulations are not effective immediately California consumers will have to continue to absorb the exorbitant costs of insurance fraud for an additional year. Adoption of these proposed emergency regulations is the only way to ensure that fraud enforcement is immediately enhanced.

The Insurance Commissioner proposes the adoption of this rulemaking action pursuant to the authority vested in him by California Insurance Code Sections 1875.20-23 et seq, 12921 and 12926. The purpose of this rulemaking action is to implement, interpret, and make specific Sections 1875.20-23 of the California Insurance Code.

#### **TEXT OF THE PROPOSED REGULATION**

The text of the proposed rulemaking is attached.

Dated:

JOHN GARAMENDI  
Insurance Commissioner

By: \_\_\_\_\_  
Debra A. Chaum  
Senior Staff Counsel